

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-6285**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LEROY BROWN,

Defendant - Appellant.

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Appeal from the United States District Court for the Western  
District of North Carolina, at Charlotte. Richard L. Voorhees,  
District Judge. (CR-92-62, CA-97-193)

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Submitted: July 3, 2002

Decided: August 14, 2002

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Before LUTTIG, WILLIAMS, and MOTZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Leroy Brown, Appellant Pro Se. Frank DeArmon Whitney, OFFICE OF THE  
UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Leroy Brown seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001).<sup>\*</sup> We have reviewed the record and the district court's order and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Brown, Nos. CR-92-62; CA-97-193 (W.D.N.C. Aug. 16, 2001). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

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<sup>\*</sup> Brown filed his notice of appeal more than sixty days after the district court entered its order on the docket, see Fed. R. App. P. 4(a)(1), and failed to obtain an extension or reopening of the appeal period, see Fed. R. App. P. 4(a)(5), (6). We have jurisdiction to consider the merits of this appeal, however, because the court's order was not entered on a separate judgment as required by Fed. R. Civ. P. 58. See Hughes v. Halifax County Sch. Bd., 823 F.2d 832, 835 (4th Cir. 1987) (finding that five-page order did not satisfy separate judgment where order contained procedural history of case and district court's reasoning). Thus, the appeal period never began to run so Brown's appeal may not be dismissed as untimely. See Quinn v. Haynes, 234 F.3d 837, 843 (4th Cir. 2000).